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5 Attorney for Material Witness: MIRTA LUNA PORTILLO
HECTOR GUZMAN GARCIA
6 JAIME ANTONIO PRECIADO GARCIA
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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
11

12 UNITED STATES OF AMERICA,) Case No.: 07 MJ 2966
13)
Plaintiff,) DECLARATION OF ATTORNEY WAYNE C.
14) MAYER IN SUPPORT OF MATERIAL
vs.) WITNESSES MIRTA LUNA PORTILLO,
15) HECTOR GUZMAN GARCIA, JAIME
SERGIO PRECIADO DIAZ; CONCEPCION) ANTONIO PRECIADO GARCIA'S MOTION
16 GARCIA OROZCO,) FOR VIDEO TAPED DEPOSITION
17)
Defendant(s).) DATE: 1/22/08
TIME: 9:30 a.m.
18) DEPT: Magistrate Papas
19

20 Material witness(es) MIRTA LUNA PORTILLO. HECTOR GUZMAN GARCIA, JAIME
21 ANTONIO PRECIADO GARCIA (hereafter "Material Witness(es)") by and through their
22 counsel, Wayne C. Mayer, submit the following Declaration of Wayne C. Mayer in support of
23 their motion for a court order to take the Material Witnesses' videotaped deposition.
24

25 I, Wayne C. Mayer, declare:

- 1 1. I am the attorney appointed to represent the material witnesses MIRTA LUNA
2 PORTILLO, HECTOR GUZMAN GARCIA, and JAIME ANTONIO PRECIADO
3 GARCIA above referenced in the Prosecution of defendants in the above referenced
4 matter;
- 5 2. I have made diligent efforts to locate sureties for the material witnesses who are the
6 subject of this motion, but have been unsuccessful;
- 7 3. No one has contacted my office to be a surety for the above referenced material
8 witnesses;
- 9 4. I have interviewed the material witnesses and determined that there is no one in the
10 United States that had the ability to help the material witnesses and assist them posting a
11 material witness bond;
- 12 5. I have called relatives in Mexico for two of the three material witnesses but have been
13 unable to locate anyone in the United States who can assist them in posting material
14 witness bonds;
- 15 6. During my interview with material witnesses HECTOR GUZMAN GARCIA and JAIME
16 ANTONIO PRECIADO GARCIA they indicated to me they are citizens and residents of
17 the State of Mexico and that they need to return to Mexico to support family who rely on
18 them for their support;
- 19 7. During my interviews with the material witnesses HECTOR GUZMAN GARCIA and
20 JAIME ANTONIO PRECIADO GARCIA indicated they had come to the United States
21 in search of employment in order to support their needy family that remained behind in
22 Mexico and they need to work to their support families;
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- 1 8. During my interview with the material witness MIRTHA LUNA PORTILLO she indicated
2 her only family is a husband who was residing in the United States. He was illegal and
3 could not get sufficient funds to pay the smuggling fee and hence she was being returned
4 to Mexico. Upon contacting the husband, he indicated he did not have funds and did not
5 know anyone who could or would act as surety for her;
- 6 9. The facts to which the material witnesses would testify are fairly straight forward; they
7 are illegal aliens without permission to enter or remain in the United States and were
8 smuggled across the border and transported to the Los Angeles for a fee of between
9 \$2000 and \$3000 and were present at the residence when agents executed a federal
10 search warrant;
- 11 10. It was determined that the witnesses MIRTHA LUNA PORTILLO, HECTOR GUZMAN
12 GARCIA and JAIME ANTONIO PRECIADO GARCIA did not have proper
13 identification or permission to enter the United States;
- 14 11. The Defendants were arrested and during questioning they admitted to smuggling the
15 witnesses, providing them with a place to stay and transportation knowing they were
16 illegal and had no right to enter or remain in the United States;
- 17 12. The material witness were arrested and detained;
- 18 13. The defendants were arrested and detained, read their Miranda rights, stated they
19 understood their rights and were willing to make statements about the offense without an
20 attorney being present.
- 21 14. Defendant SERGIO PRECIADO DIAZ admitted to being part of a northbound
22 transportation cell and he works as a load driver transporting undocumented aliens from
23 San Diego to Los Angeles area. He admitted he was paid \$100 for each undocumented
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25

1 alien he successfully transports and has transported approximately 40 to 45 loads of 2 to
2 3 undocumented aliens at a time.

3 15. Defendant CONCEPCION GARCIA OROZCO was advised of her constitutional rights
4 and agreed to waive those rights and speak with the agents without an attorney present.
5 GARCIA admitted to being part of a northbound transportation cell. She admitted it was
6 her residence where the undocumented aliens were kept after crossing the border on their
7 journey north. She admitted that as part of the northbound transportation cell she
8 maintains the residence. She admitted she got involved in this illegal activity because she
9 needed money. She knew they were illegal and had no legal right to enter or remain in
10 United States when she aided them.
11

12 16. Defendant PRECIADO DIAZ also admitted he transported material witness MIRTA
13 LUNA PORTILLO from Los Angeles to San Diego at the direction of defendant
14 CONCEPCION OROZCO who directed him by cell phone to the location where he was
15 arrested;
16

17 17. Material witnesses HECTOR GUZMAN GARCIA and JAIME ANTONIO PRECIADO
18 GARCIA stated were at the residence in National City, California at the time the Border
19 Partol agents executed a federal search warrant. While the material witnesses were at the
20 residence defendant CONCEPCION GARCIA OROZCO was in charge and gave them
21 directions while there.

22 18. During the time HECTOR GUZMAN GARCIA and JAIME ANTONIO PRECIADO
23 GARCIA were at the residence in National City, defendant SERGIO PRECIADO DIAZ
24 arrived in the Volkswagen with a female being transported to San Diego;
25

1 19. Material witnesses HECTOR GUZMAN GARCIA and JAIME ANTONIO PRECIADO

2 GARCIA got in the Volkswagen at the direction of defendant SERGIO PRECIADO

3 DIAZ and where in the vehicle waiting to be transported to the Los Angeles area when

4 the agents arrived and executed the search warrant;

5 20. Agents then detained the individuals now known as the material witnesses and the

6 defendants;

7 21. I have not been advised by either government or defense counsel of any reasons why the

8 witness' testimony cannot be adequately secured by deposition;

9 22. I have not been advised by either government or defense counsel of any reason why a

10 detention is necessary to prevent a failure of justice;

11 23. The parties have not been able to negotiate a resolution of this matter or stipulate to a

12 date for a video deposition in order to facilitate the release of the material witnesses and

13 their return to their country of origin.

14 24. All material witnesses have indicated to me that they will cooperate with the court and

15 counsel in returning to court to testify in the event this matter proceeds to trial.

16 I make this declaration under penalty of perjury and the laws of the United States of America
17 and California.
18

19 Dated: January 3, 2008

s/ Wayne C. Mayer

Wayne C. Mayer

Attorney for Material Witnesses

MIRTA LUNA PORTILLO

HECTOR GUZMAN GARCIA

JAIME ANTONIO PRECIADO GARCIA